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Ontario. Environmental Assessment Board.

OC-91-01(F)

ESSEX-WINDSOR WASTE MANAGEMENT MASTER PLAN FUNDING
PROGRAM. 1992.

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ENVIRONMENTAL ASSESSMENT BOARD

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ESSEX-WINDSOR WASTE MANAGEMENT MASTER PLAN FUNDING PROGRAM

IN THE MATTER OF the Participant Funding Program pursuant to Order in Council #2667/90 for the Landfill Component of the Essex-Windsor Waste Management Master Plan Process.

BEFORE: A.D. Levy - Funding Panel

DATED at TORONTO this 23RD day of MARCH, 1992

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IN THE MATTER OF the Participant Funding Program pursuant to Order in Council #2667/90 for the Landfill Component of the Essex-Windsor Waste Management Master Plan Process.

APPEARANCES

Counsel

John Martin	for the Essex-Windsor Waste Management Committee
Richard Winter	for Citizens Environmental Alliance (CEA)
Arnold Zweig	for Colchester in Action
Paul Mullins	for the Corporation of the Township of Colchester North
Werner Keller	for the Corporation of the Township of Colchester South & A.F.F. Farms Ltd.
Joseph Castrilli	for Maidstone Against Dumping (MAD)
Thea Dorsey	for the Corporation of the Township of Maidstone
Louis Balen	for Proverbs Heritage Association
Craig Stevenson	for John Zack & Sons Limited

Others

Christopher Pekrul	for himself
Paul Dale	for Solid Waste Alternative Products Group (SWAP)
John Martel	for the Public Advisory Committee

REASONS FOR DECISION

1. Introduction

These applications arise under the first pre-hearing "participant funding" program to come before the Board for adjudication. The City of Windsor and the County of Essex ("the proponent") have been jointly involved in a solid waste management master plan process since 1985. The planning and approval process for the plan is governed by the *Environmental Assessment Act*, R.S.O. 1990 c. E-18 ("EAA"). It is expected that the waste management master plan will be completed in final draft form, together with the draft environmental assessment ("EA document"), by May 1992. Review by government agencies and the public will then occur. The final EA document is expected by the end of 1992. If a hearing is required for its approval, it will not likely be under way before the spring of 1993.

In the meantime, the proponent has chosen to involve the public during the pre-hearing phase of the process, by providing funding for legal and consulting fees and disbursements. Once the hearing process has commenced, intervenor funding can be sought by parties pursuant to the *Intervenor Funding Project Act*, R.S.O. 1990 c.I-13 ("IFPA"). Prior to that time, no legislated program for funding is available to the public. Some proponents provide voluntary funding directly to potential parties prior to the time when the intervenor funding process commences, in order to help intervenors get an early start in addressing the issues, attempt to resolve them if possible and prepare for the hearing. These grants of voluntary advance funding do not normally involve adjudication or administration by the Board.

In this case, the proponent has established a formal process for the granting of participant or advance funding (as distinguished from intervenor funding under the IFPA) under the aegis of an Order in Council (O.C. #2667/90) made by the provincial Lieutenant Governor on December 13, 1990 ("the Order"). The Order directs that a member of the Environmental Assessment Board ("the EAB") award funding in accordance with the 12 terms and conditions contained therein. Although the Order provides that the available funds "do not exceed the sum of \$250,000", Mr. Martin advised the Board and the applicants that the proponent has decided to increase this amount to \$500,000. He also advised of the allocation of an additional reserve of up to \$100,000 for meritorious applications in the future, but indicated that this amount was not available for distribution by the Board at this time. The initial 10 applications, which were made before the proponent had increased the limit, totalled approximately \$647,000.

The County of Essex ("the County") is responsible for waste management within its boundaries, which includes the City of Windsor ("the City"). The Order restricts this funding program to "the landfill component" of the master plan process. Mr. Martin agreed that this would include issues such as waste reduction and diversion. Two preferred landfill sites have been identified. The first, referred to as site 1, is located within the boundaries of the Corporation of the Township of Colchester North ("Colchester North"). The other, referred to as site 3, is located many kilometres distant within the boundaries of the Corporation of the Township of Maidstone ("Maidstone"). The proponent will be seeking approval for the expansion and long term use (for a minimum of 25 years) of both sites.

Site 1, which receives approximately 27,000 tonnes of waste per year, would be expanded upward and to the east, thereby increasing its footprint. It presently serves nine municipalities. It is anticipated that this site will begin to receive a larger quantity of waste (and traffic), estimated at 50,000 tonnes/year, when a neighbouring landfill (site 2) closes at the end of 1992. Site 3, which receives approximately 170,000 tonnes of waste each year and serves five municipalities, would only be expanded upward. The service area of this site will not increase, so that the amount of waste received annually is not expected to change appreciably. The Maidstone site (N^o3) has been the subject of two previous hearings before the Board, in 1987 and 1989, both dealing with applications for expansion. Both of them were approved. No hearings have ever been conducted by the Board with respect to site 1.

The administration of the proponent's waste management programs is directed by a body jointly established by the councils of the City and the County, namely the Essex-Windsor Waste Management Committee ("the Committee"). The Committee, in turn, funds the Public Advisory Committee ("PAC"), an independent advisory body established by the Committee in 1986. The chair of PAC, John Martel, advised the Board that it would not be seeking participant funding, although it would continue to play an active role in the master plan process and any hearing arising therefrom. Its 11 members include two members of Maidstone Against Dumping ("MAD") and two members of Colchester In Action ("CIA"). In the past it has included some members of the Citizens Environment Alliance ("CEA").

Each landfill within the County has an advisory committee which reports to the County council. These advisory committees include representatives from the local municipalities. The committee for site 1 includes representatives from Colchester North and the Corporation of the Township of Colchester South ("Colchester South"). This municipality is adjacent to and south of site 1. The committee for site 3 includes representatives from the Maidstone area.

Local municipalities within the County are responsible for collection of waste and transport of it to the landfills where they pay tipping fees to the proponent. Waste diversion activities, such as the blue box program, are the mandate of the proponent.

Approximately 32 reports have been prepared with respect to the landfill component of the master plan process. They are listed in Exhibit G-5, entitled "Documentation That May Be Used To Prepare The Essex-Windsor Solid Waste Management Master Plan and EA Documentation". Exhibit G-7, entitled "Summary List Of Specialist Areas Involved In Site Specific Investigations Now Being Undertaken At Landfill N^o1 And Landfill N^o3" refers to 18 areas of study. It is expected that 10 reports will be prepared with respect to each site for use in the approval process. Final reports regarding site selection and social impact are expected sometime this month. The final drafts of the remaining reports are expected in April, when they will be made available to the applicants to review. It was my understanding that they have not yet had the opportunity to review any reports. Exhibits G-5 and G-7 were filed at the Board's meeting in October with the parties, and were used by the applicants in preparing their funding applications.

2. The Board's Jurisdiction

As the Board's jurisdiction is derived from the Order, its "Terms and Conditions" govern the allocation of funding. Some of those provisions are listed below:

- Section 4 permits a funding panel of the Board under the IFPA to consider the award of participant funding made under the Order.
- Section 5, dealing with eligibility, requires that an award be related to issues which affect:
 - (a) a significant segment of the public, and
 - (b) the public interest and not just private interests.
- Section 6 includes the eight eligibility criteria found in s.7(2) of the IFPA, namely:
 - (a) the applicant must have a clearly ascertainable interest that should be represented at a hearing;
 - (b) a separate and adequate representation of the applicant's interest would assist a hearing panel and contribute substantially to a hearing;
 - (c) insufficient financial resources to adequately represent the applicant's interest;
 - (d) reasonable efforts to secure funding elsewhere;

- (e) an established record of concern for and commitment to the applicant's interest;
 - (f) attempts made to bring related interests into an umbrella group;
 - (g) a clear proposal for the use of any funding, and
 - (h) appropriate financial controls to ensure that funding is spent for the purpose intended by the award.
- Section 8(c) requires that the amount of funds available to an applicant from other sources be deducted from the award.

It is not necessary for an applicant to meet all of the criteria referred to in s.6 of the Order. The 1990 decision of the Ontario Court of Justice (General Division) in *Native Council of Canada v. Environmental Assessment Board and Ontario Hydro* (file 18044/90), dealing with an appeal from a funding order, commented on the same provisions contained in s.7(2) of the IFPA:

Subsection 2 sets out several criteria which act as guidelines to the Panel when making a decision respecting intervenor funding. The list is not meant to be absolute in its application in that it should not be necessary for an applicant intervenor to meet all the criteria therein. The Panel must consider each of the criterion but where it is satisfied that the party has met a sufficient number of the criteria to warrant a grant of funding, then the applicant should not be denied because it has not met every count. (p.5)

3. The Funding Process

Extensive advance notice of the funding program was given by direct mail to individuals and groups who had indicated an interest in the master plan process, and to all persons owning property within 300 metres of the boundaries of the two sites. In addition, notice was published in six local newspapers.

In order to assist the parties in resolving their competing claims for the available funds, the following process was developed with the assistance of Board staff and followed:

- October 17, 1991 - informal meeting with the funding panel, Board staff and the parties to determine the applicants' areas of concern, facilitate direct meetings amongst the applicants and with the proponent, and distribute funding applications.

- December 12th - applications received, summarized by Board staff and distributed to all parties, with the opportunity for them to communicate with each other in an attempt to reduce claims to the limit of available funding.
- January 15, 1992 - meeting of parties on a without prejudice basis, in an effort to reach an all-party agreement which could be presented to the Board for approval.
- February 12th - revised applications received, summarized by Board staff and distributed to all parties, providing a final opportunity for them to resolve outstanding differences.
- February 21st - funding hearing conducted, decision reserved, proponent undertook to file with the Board any last minute amendments to the revised applications which could be promptly agreed upon by the parties.

These amendments were supplied by Mr. Martin together with a covering letter dated March 5, 1992 (Exhibit G-9). Appendix I to this decision, Summary of Final Funding Applications, is a corrected version of the proponent's summary from p.1 of Exhibit G-9. At the meeting on October 17, I urged the applicants to join together, where possible, to submit joint applications, in order to avoid duplication and reduce the overall amount of funding requested. I also indicated that it would be desirable if agreement could be reached between the parties as to the allocation of funding between the applicants, and presented to the Board for review and approval.

It appears that despite their attempts, this process was not successful. Although the proponent decided to double the available funding, only one coalition, Colchester South and A.F.F. Farms Limited ("AFF"), was formed. The total of net funding requests was reduced only slightly, to \$643,317, by the outset of the hearing. As a result of what transpired during the hearing, the combined net claims from the applicants were further reduced to \$587,201.

The procedure followed at the February 21st hearing enabled the Board to hear from all of the parties in one day. No witnesses were called to testify. I adopted the approach taken by the Board in its ruling, dated July 19, 1991, in the *Timber Management Class Environmental Assessment* funding program, EA-87-02(F) 91/92:

1. Each applicant would make submissions with respect to its application.
2. An opportunity would be given to each party to make submissions to the panel with respect to the other applications.
3. These submissions could include questions to the panel with respect to each application.

4. The applicants would then have the opportunity to make reply submissions.
5. If this process failed to deal with any factual problems in need of further examination, the panel would hear submissions from the parties as to what process should be followed. (p.12)

4. General Issues

(a) **The Purpose of Participant Funding**

Section 1 of the Order refers to the following reasons for the participant funding program:

- to assist groups or individuals lacking sufficient resources to inform themselves of the issues involved in the landfill component of the master plan process;
- to assist them to review the work of the Committee, in order to identify issues and concerns, and attempt to resolve them with the Committee;
- to permit a timely review of the proponent's documentation by potential parties in the hearing process, in order to expedite the commencement of the hearing;
- to assist in identifying and scoping the issues for the hearing through such procedures as meetings of experts and preparation of statements of agreed facts.

There is an additional and fundamental purpose behind all funding, including participant funding, intervenor funding under the IFPA and awards of costs. This purpose, identified in s.6(d) of the Order, was well described in the February 1988 intervenor funding decision of the Board in *Timber Management*, EA-87-02(F):

The Funding Panel has considered the requirements of the Order in Council, the spectrum of interests represented by the applications and the need of the applicants for assistance. However, the overriding consideration in coming to a decision on the allocation of the funds was to try to ensure that the funds will be used to enable the participants to assist the Board in its examination of the environmental assessment. (p.13)

In my view, the Board must consider whether funding of an applicant is likely to benefit the pre-hearing and hearing stages and assist the Board.

(b) The Amount to be Distributed

The position of the proponent was that it was for the Board to decide whether to award the entire sum of \$500,000, or a lesser amount. Mr. Mullins, representing Colchester North, objected. He had been proceeding on the basis that the entire sum would be allocated, and that the proponent had not led him to believe otherwise. It appears that during the negotiation stage, the parties were striving to reach an agreement whereby funding requests, acceptable to the proponent, totalled no more than \$250,000. However, no such agreement was reached. It was not until February 18 that the Committee decided to recommend that the funding limit be raised to \$500,000. However, the requests continued to exceed the new limit.

The Board is, of course, in a different position than the proponent. The discretion to be exercised by the Board is constrained by the provisions of the Order, which does not require that the maximum amount be distributed. The parties were aware of the terms of the Order, and the fact that if no agreement was reached during the negotiation process, the Board would proceed to make its own determination of the appropriate distribution. Indeed, even if there had been an all-party agreement, the Board's approval would still be required.

Each party, including the proponent, approaches the issue of distribution of funding from the perspective of its own agenda and concerns, whereas the Board is seized with the responsibility of attempting to ensure that any award will provide the maximum possible benefit to the environment. The fact that money is available does not necessarily mean that its allocation is required. The money which is available comes from public funds, and the Board is expected to exercise restraint in making any award. No doubt this is one of the reasons why the proponent chose to involve the Board in the process. I am also concerned that the amount awarded for each site might be perceived as a minimum requirement by applicants in any future participant funding program. Accordingly, I have concluded that it is within my discretion to approve the distribution of participant funding which is less than the maximum available amount.

From the evidence and submissions, it became quite evident that none of the applicants had a clear idea of the amount of legal or consulting time that would be required to review the proponent's material. This is not surprising. It would not be possible to develop a reasonable work plan without first seeing the material which will be the subject of the review. I am concerned that a large award made at this stage will result in significant overlap and waste. The more that is spent now, the less that will be available later.

Accordingly, I have concluded that it would be prudent to award at this stage only that amount which would be sufficient to assist the applicants to undertake the following steps:

1. conduct an initial review of the proponent's documents, once available;
2. consult with each other to determine which areas, if any, require further study, and which applicants will undertake that study;
3. obtain estimates of costs from consultants, using the proponent's reports as a basis for the estimates, and having provided the consultants with instructions as to which areas are of importance, and
4. submit a supplementary application, if further funding is required.

In order to provide some guidance to the applicants with respect to the supplementary funding process, the following directions are to be observed:

5. the application must be detailed, and include as a minimum:
 - (a) an up-date as to the applicant's financial situation, with copies of more recent financial statements, if available;
 - (b) details of fund-raising efforts;
 - (c) funds available to be contributed towards any further award;
 - (d) details of other contributions to the participant's involvement for which credit is sought;
 - (e) a breakdown of the amount of participant funding which has been spent and the amount of the award remaining;
 - (f) a report on how the funding award has been spent, the work that has been undertaken and the results which have been achieved;
 - (g) a description of the tasks to be performed by counsel;
 - (h) detailed work plans, including a break down of hours and hourly rates for each consultant to be retained;
 - (i) details of further efforts made to form umbrella groups;
 - (j) a description of further efforts made to co-ordinate with other participants, the expenditure of present and future funding;
6. the applications are to be submitted to the proponent, with copies to the other applicants, no earlier than June 15 and no later than June 30, 1992;
7. blank application forms will not be provided by the Board;
8. the proponent will respond with comments to all applicants, in writing, no later than July 15, 1992;

9. the applicants may respond to the proponent's comments, and to the applications submitted by other applicants, by submitting comments to the proponent and the other applicants no later than July 29, 1992;
10. the documentation referred to in steps 5-9 will not be forwarded to the Board, other than at step 11;
11. the proponent will submit in writing its final position regarding the applications, to the Board (with copies to the applicants), no later than August 12, 1992, together with copies of the documentation referred to in steps 5 to 9 above;
12. the Board will review the documentation and, if possible, deliver its written decision to the parties without conducting an oral hearing.

With detailed information and written submissions from the parties, an oral hearing should not be necessary. This will save the parties considerable time and expense. In the event that the Board determines that a hearing must be conducted, the parties will be notified.

(c) The Role of Counsel and Consultants in the Pre-Hearing Process

Mr. Castrilli submitted that counsel is required to retain consultants, develop their work plan, review the proponent's reports, submit interrogatories and consult with the proponent's representatives. Mr. Martin agreed that the use of interrogatories is acceptable to the proponent, even though the government review process will also include questions and answers which might duplicate some of the interrogatories. Mr. Castrilli maintained that the use of such information-gathering techniques at this stage will minimize the preparation time required between the preliminary hearing and the main hearing, and permit a rigorous schedule to be adopted by the Board.

He submitted that consultants have several time-consuming tasks to perform during the pre-IFPA stage. He itemized those tasks in Exhibit 6C:

1. review of reports;
2. preparation of interrogatories and supplementary interrogatories where necessary;
3. meeting(s) with experts for the proponents;
4. meeting(s) with counsel, and
5. preparation of summary review including areas of agreement/issues in dispute.

(d) Legal Fees

The proponent's position was that 200 hours of legal time seemed appropriate for each of the municipalities and citizens' groups. This would cover the period from the end of April until the end of 1992. This estimate was based upon five weeks of work (at 40 hours/week).

Section 8(a) of the Order restricts the amount which can be awarded for legal fees to the rates authorized by the Ontario Legal Aid Plan. The IFPA contains the same provision. It was submitted by the parties that the applicable rates are as follows:

Senior counsel (completed 10 years of practice in litigation, 4 of which were in civil litigation)	\$83.75/hr.
- travel time	\$53.75
Intermediate counsel (completed 4 years of civil litigation)	\$75.38
- travel time	\$48.37
Junior counsel	\$67.00
- travel time	\$43.00
Law clerk/Student	\$23.00

In allocating funding for legal assistance at this stage, I have applied the hourly rate applicable to the lawyer who will be primarily involved. I have made no allowance for additional senior, junior or student rates, or travel time. The applicants can determine for themselves how to make the most efficient use of the funding in this category.

There is no restriction in the Order (or the IFPA), as there is in the Ontario Legal Aid Plan, preventing a funded party from paying to its counsel an additional sum from other sources, to increase or "top-up" the above rate(s) to the amount which that party's lawyer would ordinarily charge a private (non legal aid) client. The applicants claimed that the fact that they would be making top-up payments to their lawyers should be considered as a form of financial contribution, in order to satisfy their obligation to raise funds from other sources, pursuant to s.6(d) of the Order. They also claimed that top-up payments should also be considered with respect to the deduction which the Board is required by s.8(c) to make from any award, in order to account for funds "that are reasonably available to the applicant from other sources".

It appears from Exhibit G-8 that the proponent objects to the applicants receiving recognition for the payments made to top-up the fees of their lawyers. Previous decisions of the Board have been divided on this question. In the 1990 *Hydro DSP Funding Stage II* decision, EA-90-01(F),

the Board concluded that it could not take these payments into account because they are not the type of payments for which intervenor funding could be awarded. The dissenting opinion in the June 1991 *Ontario Waste Management Corporation Supplementary Funding II* decision, CH-87-02(FAS), agreed with this approach. Both decisions noted that the applicant could seek to recover the top-up expense as costs at the end of the hearing. The majority in the latter decision required no contribution from an intervenor which had already spent a very substantial amount of money topping-up its legal fees. I have set out below my views on this issue.

Nothing in the IFPA (or the Order) expressly prevents the Board from taking into account monies raised and spent by an intervenor for legitimate expenses which are not fundable under the IFPA (or the Order). In order to determine whether there is an implied restriction, it is necessary to consider the purpose of the funding legislation or Order. The purpose of the IFPA, according to s.2, is simply to provide intervenor funding. The rationale for providing funding is not stated in the Act. According to s.10 of the *Interpretation Act*, R.S.O. 1990 c.I-11, which is applicable to the IFPA:

Every Act shall be deemed to be remedial ... and shall accordingly receive such fair, large and liberal construction and interpretation as will best ensure the attainment of the object of the Act according to its true intent, meaning and spirit.

In a 1989 IFPA decision, EP-89-02(F), which involved an application by MAD for intervenor funding in the second Maidstone landfill (N^o3) expansion hearing, a different panel of the Board made the following observations:

[A] liberal interpretation should be given to [the IFPA's] provisions in order that the intervenor be able to develop an independent and effective role at the hearing. I take the intent of the Act as being an attempt to redress, at least in part, the economic imbalance obtaining between the parties. To the best of my ability, I am to determine the amounts that I consider reasonably necessary for the intervenor to make its case before the hearing panel. (p.3) ...

I note, with some dismay, that the Act sets legal fees at the legal aid rate, which is considerably less than the rate to which experienced counsel is entitled. This, in my opinion, is an anomalous aspect of the Act in view of its intended goal to significantly help the intervenor make an effective contribution to the hearing.
(p.5)

In the December 1988 report of the *OWMC* funding panel, CH-87-02(F), the following observation was made with respect to this issue:

The OWMC hearing will be lengthy and will deal with complex issues. The Panel believes that experienced counsel will not only be a benefit to the intervenors, but will also be of assistance to the joint board.

If public interest counsel are to be reimbursed at the Legal Aid rate, it creates a situation where counsel for OWMC, a Crown corporation, and all expert witnesses are paid at market rates, but counsel for the intervenors are to appear at less than half the private sector rates. Yet the source of funding for OWMC and the intervenors is the same, the government of Ontario.

In addition, counsel who are members of law firms may incur personal losses if they are compensated at a rate less than expenses for office overhead. Therefore, the effect may be that the ability of the parties to engage experienced counsel may be limited. (pp.14-15)

As noted above, other decisions have also referred to the purpose of funding programs and costs as enabling the intervenor to participate and assist the Board in scrutinizing the application before it. The purpose of funding is not advanced by imposing upon an intervenor financial restrictions which are likely to have the opposite effect. In my respectful view, if expenses incurred by an intervenor are reasonably necessary, it would not promote the attainment of the objectives of intervenor or participant funding to refuse to allow for the impact those expenses may have on the intervenor's ability to make further contributions toward the cost of its intervention.

In this case, the objectives of the participant funding program, as expressed in s.1 of the Order, would be furthered by an applicant who retained experienced and skilled counsel. It remains necessary, of course, for the Board to determine in each instance whether the amount of top-up is reasonable.

At the same time, parties must be careful not to assume when they retain counsel that costs will ultimately be awarded to them by the hearing panel, in order to eliminate the top-up of fees that they have contracted to pay. Further, even if costs are awarded, they may not necessarily be at the rate that the parties have agreed to pay their counsel. In the *Ontario Hydro Supply and Demand Plan* matter, EA-90-01, the Board issued a guideline entitled "Hearing Procedures" on April 30, 1991, limiting the award of costs to the following rates: \$165/hour for senior counsel, \$145/hour for intermediate counsel, and \$115/hour for junior counsel. This approach was adopted in an interim costs award made by a joint board on February 26, 1992, in *Innisfil*, CH-91-01.

(e) Consulting Fees

Mr. Martin suggested that if a cap of \$120/hour were placed on the funding of consultants retained by the applicants, the overall amount claimed would be reduced by approximately \$13,000. Section 8(b) of the Order directs the Board to "set a ceiling in respect of disbursements that may be paid as part of the award". No evidence was led to suggest that \$120 is a reasonable ceiling on consultants' fees. Mr. Castrilli argued strenuously that the applicants are handicapped enough by the limits imposed on the hourly rate for legal fees. To arbitrarily impose a similar cap on consulting fees would only add insult to injury, in his submission. Ms. Dorsey submitted that although more experienced consultants have higher hourly rates, one can expect greater efficiency from their work. In other words, they can produce more and better in less time.

As stated above, the overall objective of the funding program must not be eclipsed. In my view, Mr. Martin's suggestion, however well intentioned, is likely to diminish an applicant's ability to get the job done properly.

Due to the fact that so little is known about the areas that will require study, the issues that will be of concern, and the amount of consulting time that will be required to study those concerns, the determination of an appropriate amount to award at this stage has been difficult. I have reviewed the amounts requested and the submissions of the parties with the knowledge that they too are in the dark at this point.

The areas selected and the amounts allocated by me are based upon a judgment call which may, to some extent, appear somewhat arbitrary. The awards were based upon the very limited amount of information available, and seem to me to be the most appropriate distribution at this stage.

(f) Disbursements

The amounts claimed by the applicants (to whom funding has been awarded) for legal and consulting disbursements fell within the range of 5%-20% of the fees. The reasons for selecting these varying amounts were not articulated in the applications or during the hearing. The Order requires, in par.8(b), that the Board:

set a ceiling in respect of disbursements that may be paid as part of the award and such disbursements shall be restricted to disbursements for consultants, typing,

printing, copying and such other expenditures which, in the opinion of the Funding Panel, are necessary for the representation of the interest.

I have made no allowance for general disbursements incurred directly by the applicants. The only request for this came from MAD which sought funding for transcripts. There have been no transcripts produced during the funding process, and this request is therefore denied.

It is difficult to award funding for disbursements when the amounts claimed vary so widely, and the basis for the claims is not provided. In the July 1991 funding decision in *Timber Management*, EA-87-02(F)91/92, the Board dealt with this issue as follows:

As a general rule, the disbursements of legal counsel and consultants have been funded at 15% of the amount of the fee allocation. Exceptions to this rule have been made where sufficient detail has been provided to satisfy the panel that a larger allocation is justified. (p.15)

A review of other funding decisions indicates some variation in the award of disbursements. An award based upon 10% of fees has not been uncommon. It was also adopted by some of the applicants in the case before me. On average, the applicants' claims for legal and consulting disbursements amounted to approximately 9% of fees claimed. In Exhibit G-8, Mr. Martin proposed that the claim for legal disbursements of Colchester South and AFF be limited to 10%. In his earlier written submission, dated December 23, 1991, Mr. Martin questioned the legal disbursements in two applications and stated:

It is fairly common for awards for legal disbursements to be no more than 10% of the legal fees awarded. (p.3)

There was no comment on consultants' disbursements.

I have decided that the application of 10% to legal and consulting disbursements for all of the awards would provide a reasonable allowance to the participants. It seems to me that it would not be fair to award less than that level to those whose claim was less than 10%, as that would only penalize those who attempted to restrict their claims to a modest amount.

(g) Financial Statements

The application form distributed to the participants included the following item:

10. Please provide your financial statements of the last two years and an operating budget for the current year. The financial statements and

operating budget should be in sufficient detail so that the Board can clearly ascertain all sources and use of funds.

Despite this provision, several applicants failed to include this information. Some provided a statement for only one year, not two. One included a summary of finances, rather than a financial statement. Some indicated that information would be provided if requested by the Board. These responses are not satisfactory. The Board does not have the time or the responsibility to coax parties to provide the information which is requested. If they fail to do so, the Board is left without the information it needs to assess whether the requirements of sections 6(c), 6(d) and 8(c) of the Order has been satisfied. Without such information, the Board is entitled to draw a negative inference that the applicant cannot satisfy those requirements: see *The Law of Evidence in Civil Cases* by Sopinka and Lederman (1974) at p.535-6. In the 1991 *Timber Management* funding decision it was held that the burden of proof is upon the applicants:

Generally, in funding programs, there is an onus upon intervenors to satisfy the funding panel, on a balance of probabilities, as to their eligibility and need. The amount of information which is reasonable to require from the applicants will, of course, depend upon the progress of the hearing at the time. (p.14)

(h) Funding of Municipalities

As is so often the case, municipalities were competing with citizens' groups for funding awards. The argument is advanced that since municipalities can obtain funding through taxation, unlike citizens' groups, the latter should receive preference in allocating scarce funding dollars. Several recent funding decisions have included awards to municipalities: *Steetley*, EP-89-04(F), *Innisfil*, CH-91-01(F) and *Storrington*, EA-91-01(F). The same issue has also arisen in the context of costs proceedings. After reviewing several earlier decisions, a 1991 joint board decision in *Durham* CH-90-09 concluded as follows:

It appears to us that previous joint board decisions have tended to deal with the claims for costs by municipalities on a case to case basis. We are of the view that this approach makes good sense, as it leaves to the Board the flexibility to assist municipalities in appropriate cases. For example, the size of the municipality and its tax base will significantly affect its ability to finance its intervention without assistance. Further, the need for a municipality to intervene in a matter will vary from case to case. Costs should not be awarded where the intervention was not necessary. On the other hand, if a municipality is representing its ratepayers' interests, it is not totally unlike the position of a municipal-wide residents' association. Needless to say, it has not ever been suggested to us that such associations should generally be ineligible for costs.

In our view the question as to whether costs should be awarded to a municipality depends upon the twin factors of need and contribution to the hearing process. We do not agree with Mr. Lederer's suggestion that need is unrelated to the availability of money. However, we do agree that to some extent need is a relative term. For example, we would not expect a small municipality to exhaust its education or welfare budget in order to finance its intervention before a joint board. (pp.45-6)

In my view, it is appropriate to apply the same principals to the issue of participant funding of a municipality.

(i) Division of Funding Between the Two Sites

Mr. Mullins, for Colchester North, submitted that since site 1 has not gone through the hearing process before, as has site 3, his client will not have had the benefit of previous reports and consulting work. In other words, his team will be starting from the beginning in its examination of the impacts caused by this site. In addition, site 1 is being expanded outward as well as upward, whereas site 3 is only being expanded upward. On the other hand, Mr. Castrilli pointed out that the previous hearings were not under the EAA, and accordingly, there will be considerable new territory to be covered with respect to site 3. He submitted that the Board should consider making an equal division of funding between the two sites.

I have concluded that it is premature to deal with this question. The applicants have yet to review the proponent's documents, and it remains to be seen what issues will arise in that review. At this point, there is no basis for predicting that, as between the two sites, there will be an equivalent number of issues requiring a similar amount of study and legal work.

5. The Applications

Correspondence was received from the Corporation of the Town of Amherstburg prior to the October 17 meeting indicating an interest in funding of \$10,000. This municipality incurred professional fees while resisting (successfully) the selection of the Amherst Quarry as a landfill candidate. This occurred prior to the commencement of the participant funding program. No one from the Town attended the October 17 meeting.

The proponent, supported by CIA, was opposed to funding the Town for these expenses, on the basis that the Order was not intended to have retrospective application. In addition, the funding

of these expenses would not fall within the purpose of the Order (s.1) or satisfy the requirement of s.7. The Town was advised of the above, and did not subsequently request an application form. Accordingly, I do not consider the Town to be an applicant, and make no determination with respect to it.

There remains to be determined nine applications seeking independent legal representation for eight applicants, at a cost of \$119,256, and funding for consultants dealing with approximately 24 study areas, at a cost of \$535,475. The discussion and findings with respect to the applications are dealt with individually in the remaining sections of these reasons. A breakdown of the awards to the successful applicants is included in Schedules A-1 to A-7 attached to these reasons. Schedule A, entitled Summary of Funding Allocation, is a one-page summary of all of the awards.

(1) Citizens Environment Alliance

CEA, formerly the Clean Water Alliance, is a non-profit environmental advocacy organization located in the City, with approximately 300 members who reside throughout the province and beyond its borders. CEA is active in several environmental issues which involve the City and the County. It holds public information meetings, publishes a newsletter and has received project-specific funding from various sources for some of its projects.

CEA has been involved in the master plan process since 1988. Its interest is in the area of waste reduction and diversion. CEA requests funding for 80 hours of legal assistance, legal disbursements at 10% of fees, 60 hours (at \$75/hour) for an environmental planner, 240 hours (at \$50) for a researcher, consultants' disbursements at 10% of consultants' fees, and general disbursements amounting to approximately 16% of the combined legal/consulting claims. The total request is for \$30,637.31.

The position of the proponent was that there was no duplication between the interests of PAC and CEA, and that CEA should receive some funding. Mr. Martin submitted that the request for legal fees, at 80 hours, was excessive.

I am satisfied that CEA satisfies the requirements of the Order except as indicated hereafter. It is unclear whether a separate representation is needed, as required by s.6(b), with respect to the issue of waste reduction and diversion. MAD has indicated that it wishes to deal with this issue as well. There would be no need to provide funding for two parties with respect to this issue, but for my concern about the importance of this issue. CEA has alleged that the

proponent has not embraced waste reduction and diversion, despite CEA's active encouragement. For example, tonnes of outdated telephone directories were landfilled because the proponent refused to transport them to a local recycler.

It is not clear whether CEA has attempted to bring related interests into an umbrella group, as required by s.6(f). However, I am not prepared to deny funding for this reason. CEA has made no offer for the deduction of funds with respect to s.8(c). It appears that this applicant does engage in fundraising, and has been devoting financial resources to this issue.

It would be in order, in my view, to provide limited funding to CEA to review the proponent's documentation with respect to the issue of waste reduction and diversion. The applicant is already familiar with the proponent's programs in this area. CEA should then prepare a report containing its findings, which it is to circulate to the other parties, as well as to the proponent. I would also expect that CEA would publicize its findings through its newsletter and public meetings, in order to increase public awareness about this issue. An allowance of 75 hours @ \$50/hour, plus 10% for disbursements, is made for this category.

I do not believe that CEA should require further legal assistance to carry out this task. It has received legal advice with respect to its application, and counsel attended the funding hearing from Toronto. An allowance of 8 hours plus 10% for disbursements is made for this category. Given the additional tasks expected of CEA, the necessity of top-up of legal fees, and the fact that I have made no award of general disbursements to the organization, I have made no deduction pursuant to s.8(c) to account for CEA's other funds. The total award of \$5,202.34 is summarized in Schedule A-1.

(2) Colchester In Action

CIA is an organization consisting of citizens who reside in the vicinity of site 1. Mr. Zweig, CIA's counsel, appeared at the October meeting only. At the hearing in February, Mr. Mullins, counsel for Colchester North, made some submissions on behalf of CIA, at the request of Mr. Zweig. The group consists of 15-20 families (less than 100 people), with "supporters" numbering 70-80 families. The term 'supporters' was not explained. I assume that it refers to others who are sympathetic with its goals. The membership is not large, because the population density in this area is low. Most of its members live within Colchester South. The group was formed when it became known that this site was a candidate in the master plan process. CIA members have been required to live with the impacts from the site's operation for many years.

Mr. Zweig advised that CIA's interests may be the same as Colchester North and Colchester South. Since those Townships wish to retain their own counsel, he was concerned that no monetary grants would be forthcoming from either of them to assist CIA with its intervention. Mr. Mullins indicated that a host municipality may have a potential conflict with a group of citizens, and he supported the award of funding to permit CIA to have its own counsel. CIA plans to jointly retain consultants with Colchester North, and seeks funding under several categories with rates and hours divided up between it and the Township. However, for some reason these two parties did not want to file a joint application.

CIA requests funding for 200 hours of legal assistance, with legal disbursements calculated at 15% of fees. Exhibit G-9 lists six areas of study totalling 515 hours and consultants disbursements of approximately 14% of fees. The total claim is for \$51,493.75.

I am satisfied that CIA satisfies the requirements of the Order except as indicated hereafter. It is unclear whether a separate representation is necessary at this stage, as is required by s.6(b). No conflict has been identified as yet. Although I am prepared to award some funding to CIA at this stage, it is on a limited basis. There appears to be little reason to fund both CIA and Colchester North for a portion of the cost of the same consultants. This can only create confusion for the administration of the award, and the need for this splitting of funding was not appreciated by me. Since Colchester North is requesting the bulk of the consultants' funding, I have decided to allocate all funding for consultants to that municipality. This arrangement is subject to the condition that full consultation and sharing of information and documentation will take place between Colchester North, Colchester South and CIA.

In my view, an allowance of 50 hours for legal fees, plus legal disbursements of 10%, should be adequate for CIA at this stage. The issue of CIA's financial resources, pursuant to s.6(c), is difficult to determine. The application (Exhibit 2A) indicates that grants of \$5,000 are to be received from the two Colchester municipalities. The group's 1990 financial statement indicates a closing balance of \$10,236.89. Yet no deduction is proposed, as required by s.8(c). I am satisfied that CIA will require funds for top-up of legal fees and further expenses in the process. For that reason, no deduction has been ordered. The total award of \$4,928.69 is summarized in Schedule A-2.

(3) Colchester North

Colchester North, the host municipality for site 1, had a population of 3,583 people as of 1988, with a general equalized assessment of \$55,298,027. According to its 1990 financial statement

(Exhibit 3C), its 1990 net municipal revenue was \$1,079,476. The remaining surplus at the end of that year was \$62,325. The amount of \$723,988 was held in reserves. Net long term liabilities were \$341,705. The municipality has no in-house consultants, such as planners, who could assist with the examination of the proponent's reports. Mr. Mullins candidly indicated that he has little idea at this stage as to the amount of legal fees that will be required during the process. His client has agreed to share consultants with CIA and Colchester South.

This municipality receives from the proponent a royalty from tipping fees at site 1, in the amount of \$2.50/tonne. This averages approximately \$60,000/year, of which 30% is paid to Colchester South. Mr. Martin noted that the application has not reflected the 4% GST rebate accorded to municipalities. Colchester North has not registered for GST, because of the accounting expenses that would be incurred in so doing. The municipality's financial statements indicate that certain capital reserves have been accumulated. Mr. Mullins indicated that these are targeted for necessary projects or problems.

The application requests funding for 200 hours of legal time, plus legal disbursements calculated at 15%. With respect to the claim for consultants, the summary in Exhibit G-9 identifies 18 areas of study. The claim for consulting fees totals \$138,300. The amount of disbursements for consultants appears to be approximately 11% of fees. Contribution of \$16,475 has been proposed, leaving a net claim of \$168,875.

Mr. Mullins advised that additional legal fees will be expended by the municipality because site 1 has been short-listed as one of the options for the short term disposal of waste during the period between the closing of site 3 and the approval of the proponent's plan. Negotiations are under way between the proponent and this municipality, in the hope that an agreement can be reached. It was agreed by the parties that although the cost of this process would not be part of the participant funding program, this is a reasonable expense which could be recognized by the Board as part of Colchester North's contribution.

Mr. Martin raised concerns about the need for CIA, Colchester North and Colchester South to each have independent counsel. He suggested that this municipality be given the lead role with respect to legal fees, as it is the host. This appears to me to be a reasonable proposal.

I am satisfied that Colchester North satisfies the requirements of the Order except as indicated hereafter. With respect to s.6(d), I am imposing no obligation to raise funds at this stage, although this applicant is better able than a citizens' group to raise funding through taxation. Although it has financial resources which could be drawn upon at this stage, as required by

s.6(c), I believe that this issue should be examined at a later stage. Although MAD will be studying waste quantities, I am satisfied by the submissions which were made that this issue should be reviewed for each site.

With respect to legal fees, I have made an allowance for 125 hours, and legal disbursements calculated at 10%. For consulting fees, I have made the allocation summarized in Schedule A-3, which includes disbursements of 10%. No allowance was made for archaeological assessment (40 hours @ \$68.75), as I think it is premature to fund this area of study without knowing what, if anything, the proponent's material will say about the subject. The municipality will be responsible for 4% of the GST charges.

I have included within hydrogeology, the applicant's separate issue referred to as landfill monitoring program. The rate requested for hydrogeology is \$130/hour, and for monitoring \$100/hour. Exhibit G-9 described the requested rate for hydrogeology as \$110/hour. I have adopted the latter for this category. I have included the applicant's separate claim for external site servicing within the award for design and operations. The rate claimed for noise is \$150/hour, and for odour wind and dust \$125/hour. I have combined these into one category at the lower rate.

Although the applicant has offered to contribute \$18,475.33, pursuant to 8(c), I have decided to make no deduction at this stage. The applicant's contribution by way of top-up and legal work on the short-term negotiations is recognized as a reasonable contribution. The total award is \$73,425.63.

(4) Colchester South and (5) A.F.F. Farms Limited

Colchester South and AFF submitted a joint application. Colchester South's population, as of 1988, was 4,815 people and its general equalized assessment was \$123,773,818. According to its 1990 financial statement (Exhibit 4B), its net municipal revenue for that year was \$3,174,300. The balance of working funds available at the end of the year was \$361,812, with \$736,438 held in reserves. Net long term liabilities totalled \$2,844,432. The municipality receives 30% of the tipping fee royalty paid to Colchester North, which results in annual revenue of approximately \$18,000. The application states that in the past, money has been contributed to CIA, but it does not say how much or when.

The municipality has no in-house consultants to assist its review of the proponent's documents. Several households within this Township are located within a 1-2 mile radius of the site.

Mr. Keller, representing Colchester South and AFF, submitted that although site 1 is located within Colchester North, most, if not all of the impacts, are also shared by the residents of Colchester South. He too has been involved in negotiations with respect to short-term landfill issues, which, although outside the scope of this funding program, are nevertheless a drain on the municipality's resources.

Mr. Keller advised the Board that more than \$100,000 had been spent by this Township during the past two years on professional assistance with the master plan site selection process. At least half of that amount was for legal fees. He indicated that the scoping process was continuing, and that more progress might be made in this regard. The application indicated that consultants have provided estimates without knowing what to expect in the proponent's documents.

AFF is a private corporation which owns and operates a "cash crop" farm comprised of 1,000 acres of land located across the street from site 1. The most significant impacts, according to Mr. Keller, will be the traffic and nuisance factors, and the impairment of ground water which is required for farming. Prior to the October meeting, AFF had engaged a hydrogeologist and retained counsel. At the hearing in February, Mr. Keller submitted that the hydrogeologist had been able to determine that the proponent's investigation had been very extensive, and that considerable time will be required to review the proponent's work.

Had AFF submitted an individual application, I would have denied it funding in that its issues relate primarily to private interests. There are other parties, representing larger segments of the community, which can adequately deal with those issues involving public interests. In addition, AFF was one of the parties which failed to provide a financial statement, or any other information, which would indicate the sufficiency of its financial resources, its ability to raise funding from other sources and the amount of money available to deduct from any award.

The application requests funding for 220 hours of legal assistance, plus legal disbursements of 10%. With respect to the claim for consultants, the summary in Exhibit G-9 identifies three areas (hydrogeology, transportation and land use planning) which are being shared with Colchester North. In addition to consulting fees totalling \$41,000, disbursements of approximately 9% are included. Contribution, calculated at 10% of the total claim, has been included, which leaves a net claim of \$58,679.22.

I am satisfied that Colchester South satisfies the requirements of the Order except as indicated hereafter. With respect to s.6(b), I have the same concerns as have been expressed in the discussion of CIA's application. The Township has expended very substantial amounts on legal

and consulting fees during the past two years. Given the size of its tax base, I have decided that these costs, together with top-up of legal fees and the need for short-term negotiations, satisfies s.6(d). Although it has financial resources which could be drawn upon at this stage, as required by s.6(c), I think it is appropriate to defer this issue to a later stage.

I have allowed 75 hours for legal fees, plus legal disbursements calculated at 10%. The hydrogeologist, transportation and land use planning consultants retained by Colchester North are to be shared with these applicants. In order to obtain a special perspective with respect to the impacts at the southern boundary of the site, I have allowed an additional 15 hours of time for the hydrogeologist. In addition, these applicants are funded for an additional 15 hours of the transportation consultant, to obtain some additional assistance with respect to their particular perspective. I do not believe that any further consulting time regarding land use planning is required at this stage. The total award of \$9,857.13 is summarized in Schedule A-4.

(6) Maidstone Against Dumping

MAD, a (non-profit) corporation without share capital, has amongst its objects the prevention and amelioration of environmental impacts from site 3. The organization, consisting of citizens who reside within the vicinity of site 3, was formed in 1986. It has approximately 750 paid members, many of whom have lived in the area during the entire time that this site has been operating. Some of the members are farmers who depend upon clean ground water for their operations. Many of the members have experienced noise, odour, nuisance, traffic, litter and related problems caused by the operation of the site.

MAD was a party at the EAB hearings in 1987 and 1989. It was the only full-time party in opposition at the 1989 hearing, and spent \$15,000 of its own funds at that time. It also received a grant of \$20,000 from Maidstone in 1989 towards the cost of its intervention. In addition, MAD has been involved in the following activities:

- attended all workshops, open houses and public meetings concerning the master plan process;
- studied and commented upon all of the proponent's documents to which it had access;
- monitored the proponent's plans for diversion;
- participated as a voting member at meetings of the advisory committee for the site;
- communicated with all levels of government regarding its concerns, and

- informed the community of developments through newsletters, public meetings and media contacts.

According to its application, the issues concerning MAD include the site selection process, diversion and reduction, ground and surface water contamination, remedial measures including design and operations considerations, and community impacts (air quality, noise, traffic, odour, nuisance, biophysical, social, economic and property value impacts). At the October meeting, Mr. Fekete (representing MAD in the absence of Mr. Castrilli) indicated that there might not be any conflicting issues between MAD and Maidstone.

MAD did not provide its financial statements for the last two years, as required by the application form. Instead, it provided a summary of revenue and expenses for the period of January to October, 1991. During that period, revenue totalled \$39,000, expenses totalled \$6,797, and further professional expenses in the amount of \$13,000 were anticipated, leaving a balance on hand of \$20,297. The estimate of further revenue from fund-raising in the next 12 months is \$1,000 from all sources.

The application requests funding for 280 hours of legal time, of which 30 hours are for travel, and 50 are for a law student. Legal disbursements are calculated at 10%. With respect to consultants, the summary (Exhibit G-9) identifies 11 areas of study involving a total of 825 hours of consulting time at rates ranging from \$65 to \$160 per hour. The claim for consultants' fees totals \$75,400, plus disbursements of 10%. In addition, a claim of \$1,070 was included within the general disbursement category for transcripts (presumably from the funding hearing). The application totals \$110,621.74, towards which contribution of \$21,297.21 is proposed, leaving a net claim of \$89,324.53.

An issue was raised by Mr. Martin with respect to the request for a consultant in the area of waste quantities. Colchester North had also requested (and has received) funding in this field. The proponent's position is that only one expert, and one funding request, should be considered by the Board. Mr. Castrilli, who defined "waste quantities" as the study of waste sources and the respective quantities of waste generated by those sources, argued that there is a potential for conflict between the two sites on this issue:

Should the evidence prove that only one site is needed, MAD and Colchester North may be in a position where their interests are best served by suggesting the other site is most appropriate. Given the inherent possibility for a conflict of interest to arise, it would be difficult, if not impossible, for a consultant to take instructions from the two parties. (Exhibit 6B)

Mr. Mullins, who supported the request, submitted that there is a perception (if not a reality) that consultants serving different masters with competing interests will adopt different approaches and reach different conclusions. Having weighed the positions of the parties, I have allowed a limited amount of funding for each of these two applicants to obtain assistance from independent consultants in this field.

I am satisfied that MAD complies the requirements of the Order except as indicated hereafter. It is unclear whether at this stage a representation separate from Maidstone is required, in accordance with s.6(b), as no conflict has been identified. It is my understanding that there is no overlap or duplication between the study areas of MAD and Maidstone. They have divided up the study territory into two separate areas, one of which is covered by each application. Although MAD has fundraising ability, in satisfaction of s.6(d), and has funds which can be contributed to an award, as required by s.8(c), I believe that these issues should be examined at a later stage. The applicant's contribution by way of top-up of legal fees and monies expended throughout 1991, are considered by me to be reasonable.

With respect to legal fees, I have made an allowance of 100 hours, plus legal disbursements calculated at 10%. For consulting fees, I have made the allocation summarized in Schedule A-5 plus disbursements of 10%. The allowance for "design and operations" includes site assessment and selection. I have used a rate between the the two rates provided in the application for this category, as well as for surface water. With respect to hydrogeology, the award is to cover site assessment and selection. The application seeks 80 hours to study "compensation measures", even though this subject is dealt with at length in the Board's 1989 decision. I have allowed 10 hours, and expect that there will not be duplication of the ground already covered in that decision. The total award is \$42,357.88.

(7) Maidstone

As of 1988, Maidstone's population was 8,850, and general equalized assessment was \$320,592,962, or approximately twice that of the two Colchester Townships. This much larger assessment, beyond that which is explained by the difference in population, is due to the amount of industrial/commercial property in this Township. According to its 1990 financial statement, Exhibit 7B, total financing available for the year was \$6,576,130. The sum of \$3,455,288 was held in reserves and net long-term liabilities totalled \$1,070,575. There was no surplus indicated in the statement, but the Township managed to put \$922,228 into reserves that year.

During the period 1987-1990, the Township received from the proponent \$1,027,000 as royalties for tipping fees with respect to site 3. Of this amount, approximately one third was spent on landfill-related matters. The sum of \$325,000 was put into reserves for unrelated matters. An additional sum (\$290,000) was spent on the cost of an addition to the town hall. Maidstone spent \$367,000 on legal and consulting fees during the period 1986-1990 with respect to the site. The Township was a party in the 1987 and 1989 hearings. The sum of \$45,000 was granted to MAD and Proverbs Heritage Organization ("Proverbs") in 1988-1989 for landfill-related activities. In 1990, it spent \$100,000 on the following: monitoring (\$33,000), participation in public meetings and the site 3 advisory committee, review of documents and preparation of submissions, and work on social impact and process (\$22,000).

All of the expected revenue for 1991 (\$90,000 - \$100,000) will be used for these issues. Prior to the October meeting, the Township had spent \$33,445 on consultants' fees and more than \$10,000 in legal fees related to the site selection process. There will be additional expenditures in the future to deal with site-related matters not covered by participant funding, such as "review and participation in the contingency planning study" (Exhibit 7A, p.16).

The Township submits that it would be inequitable to require it to raise additional funds through taxation, to finance its involvement in the master plan process, because "the impacts of the landfill on the public are not consistent throughout the municipality" (Exhibit 7A, p.6). I do not find this argument to be compelling. It is unlikely that many expenditures by a municipality benefit all of its taxpayers equally, and yet those expenses are nevertheless routinely financed by tax revenue.

The application seeks funding for 325 hours of legal time, plus disbursements of 10%. With respect to consultants, the summary in Exhibit G-9 identifies six areas of study, involving an unidentified number of hours and fees of \$138,066.99. Consultants' disbursements total approximately 5% of fees. A contribution of \$33,000 is included, leaving a balance of \$141,668.89.

I am satisfied that Maidstone's application complies with the requirements of the Order, except as indicated hereafter. Although it has financial resources which could be drawn upon, as required by s.6(c), I believe that this should be examined at a later stage.

With respect to legal fees, I have made an allowance of 100 hours plus disbursements of 10%. For consulting fees, I have made the allocation summarized in Schedule A-6, which includes disbursements calculated at 10%. With respect to the Township's claim for a separate

hydrogeologist to study site selection (296 hours @ \$94), I have made no award. Funding has been provided to MAD's hydrogeologist, who can review both site assessment and site selection. Although the applicant has distinguished between site selection and site assessment with respect to different areas of study, I have combined selection and assessment for the purpose of the award.

No allocation has been made with respect to agriculture (site impact), as there is no farmland being taken out of production as a result of the proposed upward expansion of site 3. I would expect that impacts on nearby farms would be studied under various other categories, such as hydrogeology and litter. A small award has been made for agriculture (site assessment) as the selection process with respect to this issue would have a bearing on the decision to choose landfill 3 as a preferred site. The rate allowed for this category is between the two rates listed in the application. No funding has been included for landfill design (site selection), as provision has been made in MAD's budget to study design and operation. The rate allowed for the category of natural environment and biology is somewhat above the intermediate of the three rates listed in the application.

I have made no deduction from the award with respect to sections 6(d) and 8(c). The applicant's contribution by way of top-up for legal fees and other expenditures appears to be reasonable at this stage. The total award, including GST of 3%, is \$27,588.61.

(8) Christopher Pekrul

Mr. Pekrul attended the October meeting, and subsequently filed an application dated December 1, 1991. He resides directly across the street from site 3 on a severed half acre lot. He is a ratepayer of Maidstone and a member of MAD. His application for \$5,191.64 included 24 hours of legal time and witness fees (24 hours @ \$23) for himself. Mr. Pekrul did not attend the January 15 meeting of the parties, or the hearing on February 21. Nor did he file a revised application. At the hearing, the Board was advised by Paul Quinlan, president of MAD, that Mr. Pekrul had informed him that he would not be proceeding with his application. Accordingly, no submissions were made on behalf of the other parties, with respect to the merits of this application. This application is therefore dismissed.

(9) Proverbs Heritage Organization

The applicant, a corporation without share capital created in 1985, is a non-profit organization (with charitable status from Revenue Canada) which operates the John Freeman Walls Historic

Site located within 500 metres of site 3. Proverbs' property is comprised of 20 acres, and contains a museum, a few log cabins and a historic cemetery. One of the cabins was built in 1846 and was part of the Underground Railroad, the escape route from slavery for Afro-American slaves. It was designated as a historic site in 1982. A large number of people, including school children and tourists, visit the property each year. Proverbs' revenue is derived from donations and grants from individuals, corporations and foundations.

The landfill is a deterrent to visitors because of problems created by traffic, noise, dust and litter. There are also safety issues, as visiting vehicles have on occasion sustained damage such as flat tires caused by debris (from trucks heading to or from the landfill) on the road. Dr. Bryan Walls, a dentist, is curator of the property and resides there. He has attended meetings of the Committee, participated at the 1989 hearing (he represented Proverbs) and is very conversant with the site's impacts on the applicant. Dr. Walls attended the October meeting and spoke in detail on this subject.

The applicant's issues in this funding program are the direct impacts on its property and visitors, and "the broader impact [the site] will have on the archaeological and cultural environment of which the John Freeman Walls Historic Site is a part" (Exhibit 9A, par.6). Mr. Balen submitted that Proverbs would retain a consultant in the cultural/heritage field who would review the proponent's documents and discuss the landfill's impacts on cultural and heritage facilities throughout the County. He also advised that the applicant was interested in the proponent's archaeological study. It is difficult to imagine how increasing the height of site 3, without increasing its footprint, can have any impact of an archaeological nature. Mr. Balen indicated that Proverbs did not have the support of any expert witnesses in the 1989 hearing, yet the application states at par.9(g):

At the present time it is expected that funds will be used for legal counsel's review of the [proponent's] documentation and the retention of an expert, if necessary.

In 1988, Proverbs received a grant of \$25,000 from Maidstone. According to the applicant's financial statement for the fiscal year ending January 31, 1991, total revenue (\$34,871) exceeded expenses by \$15,310. The surplus for the years 1989 and 1990 were \$20,460 and \$15,028, respectively. The application includes a document entitled "Annual Budget" which lists annual expenses totalling \$61,000. This amount is difficult to reconcile with the other information provided, as it is two to three times greater than the annual revenue detailed for each of the 1989, 1990 and 1991 fiscal years.

The application is for 55 hours of legal time, plus disbursements of approximately 13%. In addition, it seeks 50 hours of consulting time in the cultural/heritage area, and consulting disbursements of 20%. No contribution is included. The total amount claimed is \$7,747.60. Mr. Martin supported the application.

I am satisfied that Proverbs complies with the requirements of the Order, except as indicated hereafter. It appears that this applicant is capable of contributing towards the cost of the representation of its interest, pursuant to sections 6(c) and 8(c). However, I believe that contribution should not be required at this preliminary stage. It does not appear that the applicant should require much in the way of legal assistance in this phase. The distinguishing aspect of Proverbs' present involvement, as I understand it, is the assistance it seeks from a consultant.

Accordingly, I have allowed 10 hours of legal assistance, 20 hours of a cultural/heritage consultant and disbursements for both at 10%. The applicant's top-up of legal fees, and ongoing involvement in the process, are recognized as reasonable contribution at this stage. The total award of \$2,064.22 is summarized in Schedule A-7.

(10) Solid Waste Alternative Products Group

This applicant identifies itself as a group of concerned taxpayers in the County who "prefer to be better informed regarding the process and issues" (Exhibit 10A, par.6) regarding the landfill component of the master plan. Mr. Dale, a student at the University of Windsor, is the executive director of SWAP and represented it. It was formed a year ago, and has about 20 members who reside in the City. At the October meeting, Mr. Dale indicated that the issues of concern to SWAP were reduction of waste at source, and excessive solid waste. This was the subject matter of SWAP's proposal dated September 29, 1991. In its revised application (Exhibit 10A) these issues were not included. Rather, eight of the 18 issues, listed in Exhibit G-7, were identified: agricultural assessment, external site servicing considerations, landfill monitoring program and assessment, land use and planning, social impact assessment, transportation evaluation, visual assessment, and heritage and cultural evaluation. The application indicates that SWAP is equally interested in studying both sites.

Mr. Dale submitted that some of the participant funding should be allocated to groups from the City. He would attempt to involve young people (from high schools and the University of Windsor) in SWAP's market research project, to provide a "fresh perspective". He conceded

that SWAP has no track record as a group in this field. No information was provided with respect to the applicant's finances. Financial statements were not supplied.

The application seeks funding for 1,000 hours of time, at hourly rates varying from \$10 to \$50, to pay Mr. Dale (\$12,500), two other members of SWAP (\$5,625 each) and four students (total of \$3,000), to study these eight areas. With respect to the expertise of these individuals, Mr. Dale indicated that he had a cousin involved in the agricultural field, and another who was a municipal reeve. He identified himself as an expert in consulting. Although he informed the Board that SWAP has experts who can work with it, they were not identified. The application includes disbursements for the consultants, amounting to approximately 7%, and general disbursements calculated at 10% of the total cost of consultants. No contribution was included. The total claimed is \$33,170.

The proponent and Colchester North were opposed to funding for this application. Mr. Martin submitted that SWAP does not comply with sections 6(a) and 6(b) of the Order. Although there might be some uncertainty with respect to the former, I do not see how this applicant could assist the Board and contribute substantially to a hearing. It appears to me that this group may not appreciate the purpose of participant (or IFPA) funding. It is not provided to create research projects and employment. Nor is it intended as payment to citizens who are interested in learning more about the proponent's undertaking. Yet this seems to be the nature of SWAP's application.

No information was provided which would satisfy sections 6(c), 6(d), 6(e) or 8(c). There was no indication of any effort to form an umbrella group with other applicants, as required by s.6(f). As I am unable to find that SWAP's proposal could provide the type of assistance to the proponent or the Board which would justify any award of funding, this application is dismissed.

(11) John Zack & Sons Limited

This applicant ("Zack") is a private family corporation owning farm land and two residences abutting site 3 to the south. The corporation's principals were residing on and farming their property before the site was turned into a landfill. Mr. Stevenson informed the Board of a variety of impacts suffered by his client. Included among them is the marketability of its cash crops, given the concern about possible contamination from the landfill. In addition, the proponent intends to expropriate a 100 metre strip from the Zack property.

The application indicates that this applicant has a long record of concern with respect to site 3. It seeks 105 hours of legal assistance, plus disbursements of approximately 24%. No contribution is included. The total claim is \$5,604.13.

No financial statements were provided, although the application states at par.10:

The applicant does not have excess capital for utilization on matters concerning the public interest.

Mr. Martin submitted that he is supporting a separate representation of this applicant, and not arguing that it be represented by MAD or Maidstone, because of the expropriation issue and Mr. Zack's continuing interest and concern about site 3 over the years.

There is little before me which would indicate compliance with sections 6(b), 6(c) and 6(d). With respect to s.6(g), I have no sense of how 105 hours of legal assistance will be used with respect to issues affecting the public interest since those areas have been deferred to MAD and Maidstone. Finally, without financial statements there is no basis for determining whether contribution can be made pursuant to s.8(c).

There is no doubt that members of the Zack family will have a great deal to contribute, as witnesses, at a hearing before the Board. If they are separately represented, they can apply for costs to the hearing panel. However, a major obstacle created by the Order is that there has been no identification of public issues which are not being represented by other parties. It appears that the unique issue of this applicant is its private interest in the expropriation matter. This is a serious issue which may have considerable importance to members of the Zack family as well as the corporation. It is easy to understand why this applicant would want legal assistance.

In view of the Order's direction to prevent duplication, foster co-ordinated representations and ensure that only issues affecting the public are funded, I conclude (as I did in the case of AFF) that funding must be denied. This finding in no way prevents the proponent from providing financial assistance directly to this party for its legal fees. In view of the direct interest of the proponent in acquiring a portion of the Zack lands, and Mr. Martin's support for this application, it may be that this route should be explored by them.

DECISION

1. The funding proponent is the Essex-Windsor Waste Management Committee.
2. Participant funding is allocated to the parties set out in Schedule A which is attached to and forms part of this Decision.
3. Each party named in Schedule A is allocated the amounts of funds specified in the applicable sub-schedules of Schedule A (A-1 to A-7). These sub-schedules are attached to and form part of this Decision.
4. The person or firm responsible for the accounting of the funds awarded is named on the applicable sub-schedule of Schedule A. The amounts awarded shall only be used for the purposes set out in the sub-schedule.
5. In order to ensure that coalitions of participants have adequate controls in place for payment of consultants, experts, lawyers and others, as well as to provide for the orderly disposition of funds in the event of withdrawal from or dissolution of a coalition, the following is to be filed with the Funding Panel before any claims are processed:
 - a) a copy of a written agreement among members of the coalition acceptable to the Funding Panel, setting out the terms of its operation, with specific reference to the financial impacts of withdrawal or dissolution, and
 - b) a brief description of the coalition's relationship with consultants, experts, lawyers and others with whom it will be contracting, showing the legal entity that is the contracting party on behalf of the coalition, as well as any division of responsibility for payment.
6. Claims for funds pursuant to this participant funding program shall be made in accordance with the Environmental Assessment Board's "General Principles for the Submission of Claims".
7. Claims for funds are to be submitted monthly to the Finance and Capital Management Branch, Ministry of the Environment using the "Request for Funds Form" provided.
8. Any G.S.T. rebates received by the participants shall be returned to the Finance and Capital Management Branch for remittance to the proponent.

9. At the end of the funding program, or at the end of a participant's involvement in the program, the participant shall submit a financial report to the Funding Panel and the other parties, accounting for all funds received under this participant funding program.
10. The applications of Christopher Pekarul and John Zack & Sons Limited are hereby dismissed.
11. Colchester North, Colchester South, A.F.F. Farms Limited and Colchester In Action shall share among themselves the work produced by those consultants for which funding was provided to them by this decision.

DATED at TORONTO this 23RD day of MARCH, 1992.

"Alan D. Levy"

Alan D. Levy
Funding Panel

Participant Funding Program
Essex-Windsor Waste Management Plan Process

SCHEDULE A

SUMMARY OF FUNDING ALLOCATION

Participant	Legal Fees & Disbursements	Expert Fees & Disbursements	Intervenor Disbursements	Total Budget of Funding Applications	Available Funds From Other Sources	GST Rebate	Total Funding Awarded
Citizens Environment Alliance	788.59	4,413.75	0.00	5,202.34	0.00	0.00	5,202.34
SUBTOTAL - GENERAL	788.59	4,413.75	0.00	5,202.34	0.00	0.00	5,202.34
Colchester South & A.F.F. Farms	5,914.43	4,325.48	0.00	10,239.91	0.00	382.78	9,857.13
Township of Colchester North	12,321.72	63,955.25	0.00	76,276.97	0.00	2,851.34	73,425.63
Colchester In Action	4,928.69	0.00	0.00	4,928.69	0.00	0.00	4,928.69
SUBTOTAL - LANDFILL #1	23,164.84	68,280.73	0.00	91,445.57	0.00	3,234.12	88,211.45
Maldstone Against Dumping	8,872.23	33,485.65	0.00	42,357.88	0.00	0.00	42,357.88
Proverbs Heritage Organization	887.22	1,177.00	0.00	2,064.22	0.00	0.00	2,064.22
Township of Maldstone	7,885.90	20,774.06	0.00	28,659.96	0.00	1,071.35	27,588.61
SUBTOTAL - LANDFILL #3	17,645.35	55,436.71	0.00	73,082.06	0.00	1,071.35	72,010.71
TOTALS	41,598.78	128,131.19	0.00	169,729.97	0.00	4,305.47	165,424.50

Note: All figures include the GST (7%).

File: SCHED-A

SUMMARY OF FUNDING ALLOCATION

<u>LEGAL</u>	<u>HOURS</u>	<u>RATE/HOURS</u>	<u>LEGAL FEES</u>	<u>GST @ 7%</u>	<u>TOTAL</u>
		\$	\$	\$	\$
Senior counsel	8	83.75	670.00	46.90	716.90
Intermediate counsel	0	75.38	0.00	0.00	0.00
Junior counsel	0	67.00	0.00	0.00	0.00
Law clerk/student	0	23.00	0.00	0.00	0.00
Disbursements			67.00	4.69	71.69
Total (legal)			737.00	51.59	788.59

<u>EXPERTS</u>					<u>GST (7%)</u>	<u>TOTAL</u>
<u>AREA OF STUDY</u>	<u>HOURS</u>	<u>RATE/HOUR</u>	<u>EXPERT FEES</u>	<u>DISBURSEMENTS</u>	<u>Fee+Disb</u>	<u>PER EXPERT</u>
		\$	\$	\$	\$	\$
1. Waste Diversion & Reduction	75	50.00	3,750.00	375.00	288.75	4,413.75

Total (Experts)			3,750.00	375.00	288.75	4,413.75
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<u>DISBURSEMENTS</u>	<u>DISBURSEMENTS</u>	<u>GST (7%)</u>	<u>TOTAL</u>
Typing			0.00
Photocopying			0.00
Printing			0.00
Transcripts			0.00
Total (Disbursements)	0.00	0.00	0.00

<u>SUB-TOTAL:</u>	340.34	5,202.34
Other sources of funding:	0.00	0.00
G.S.T. Rebate (rebate percentage ____)	0.00	0.00

<u>TOTAL:</u>	340.34	5,202.34
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PERSON/FIRM RESPONSIBLE FOR FUNDS:
(cheques will be issued in these names)

Mr. Rick Coronado, President
Citizens Environment Alliance
P.O. Box 548, Station A
Windsor, Ontario N9A 6M6

File: a1-cea.wk3

Phone: (519) 973-1116
Fax: (519) 255-1616

SUMMARY OF FUNDING ALLOCATION

<u>LEGAL</u>	<u>HOURS</u>	<u>RATE/HOURS</u>	<u>LEGAL FEES</u>	<u>GST @ 7%</u>	<u>TOTAL</u>
		\$	\$	\$	\$
Senior counsel	50	83.75	4,187.50	293.13	4,480.63
Intermediate counsel	0	75.38	0.00	0.00	0.00
Junior counsel	0	67.00	0.00	0.00	0.00
Law clerk/student	0	23.00	0.00	0.00	0.00
Disbursements			418.75	29.31	448.06
Total (legal)			4,606.25	322.44	4,928.69

EXPERTS

[illegible]

DISBURSEMENTS

<u>DISBURSEMENTS</u>	<u>DISBURSEMENTS</u>	<u>GST (7%)</u>	<u>TOTAL</u>
Typing			0.00
Photocopying			0.00
Printing			0.00
Transcripts			0.00
Total (Disbursements)	0.00	0.00	0.00

SUB-TOTAL:

<u>SUB-TOTAL:</u>	322.44	4,928.69
Other sources of funding:	0.00	0.00
G.S.T. Rebate (rebate percentage _____)	0.00	0.00

TOTAL:

TOTAL:		322.44	4,928.69
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PERSON/FIRM RESPONSIBLE FOR FUNDS:
(cheques will be issued in these names)

**Arnold H. Zweig
Teplitsky, Colson
Barristers & Solicitors
Suite 200
70 Bond St.
Toronto, Ontario M5B 1X3**

File: a2-cia.wk3

Phone: (416) 365-9320
Fax: (416) 365-7702

SUMMARY OF FUNDING ALLOCATION

<u>LEGAL</u>	<u>HOURS</u>	<u>RATE/HOURS</u>	<u>LEGAL FEES</u>	<u>GST @ 7%</u>	<u>TOTAL</u>
		\$	\$	\$	\$
Senior counsel	125	83.75	10,468.75	732.81	11,201.56
Intermediate counsel	0	75.38	0.00	0.00	0.00
Junior counsel	0	67.00	0.00	0.00	0.00
Law clerk/student	0	23.00	0.00	0.00	0.00
Disbursements			1,046.88	73.28	1,120.16
Total (legal)			11,515.63	806.09	12,321.72

<u>EXPERTS</u>					<u>GST (7%)</u>	<u>TOTAL</u>
<u>AREA OF STUDY</u>	<u>HOURS</u>	<u>RATE/HOUR</u>	<u>EXPERT FEES</u>	<u>DISBURSEMENTS</u>	<u>Fee+ Disb</u>	<u>PER EXPERT</u>
		\$	\$	\$	\$	\$
Agriculture	30	115.00	3,450.00	345.00	265.65	4,060.65
Bird Impact	15	62.50	937.50	93.75	72.19	1,103.44
End Use & Landscape	20	130.00	2,600.00	260.00	200.20	3,060.20
Visual Assessment	20	130.00	2,600.00	260.00	200.20	3,060.20
Heritage, Cultural	20	68.75	1,375.00	137.50	105.88	1,618.38
Social Impact	50	85.00	4,250.00	425.00	327.25	5,002.25
Hydrogeology, Monitoring	80	110.00	8,800.00	880.00	677.60	10,357.60
Waste Quantities	20	120.00	2,400.00	240.00	184.80	2,824.80
Design & Operations	30	130.00	3,900.00	390.00	300.30	4,590.30
Land Use Planning	25	130.00	3,250.00	325.00	250.25	3,825.25
Leachate Collection & Management	20	130.00	2,600.00	260.00	200.20	3,060.20
Natural Environmental Biological Assessment	25	95.00	2,375.00	237.50	182.88	2,795.38
Noise, Dust, Odour, Wind	30	125.00	3,750.00	375.00	288.75	4,413.75
Stormwater, Management	30	100.00	3,000.00	300.00	231.00	3,531.00
Transportation	30	135.00	4,050.00	405.00	311.85	4,766.85
Site Selection & EA Process	50	100.00	5,000.00	500.00	385.00	5,885.00
Total (Experts)			54,337.50	5,433.75	4,184.00	63,955.25

<u>DISBURSEMENTS</u>	<u>DISBURSEMENTS</u>	<u>GST (7%)</u>	<u>TOTAL</u>
Typing			0.00
Photocopying			0.00
Printing			0.00
Transcripts			0.00
Total (Disbursements)	0.00	0.00	0.00

<u>SUB-TOTAL:</u>	4,990.09	76,276.97
Other sources of funding:	0.00	0.00
G.S.T. Rebate Factor 0.5714	2,851.34	2,851.34
<u>TOTAL:</u>	2,138.75	73,425.63

PERSON/FIRM RESPONSIBLE FOR FUNDS:
(cheques will be issued in these names)

Paul L. Mullins
Barrister & Solicitor
691 Quellerie Ave.
Windsor, Ontario N9A 4J4

File: a3-cn.wk3

Phone: (519) 973-1116
Fax: (519) 255-1616

SUMMARY OF FUNDING ALLOCATION

<u>LEGAL</u>	<u>HOURS</u>	<u>RATE/HOURS</u>	<u>LEGAL FEES</u>	<u>GST @ 7%</u>	<u>TOTAL</u>
		\$	\$	\$	\$
Senior counsel	0	83.75	0.00	0.00	0.00
Intermediate counsel	0	75.38	0.00	0.00	0.00
Junior counsel	75	67.00	5,025.00	351.75	5,376.75
Law clerk/student	0	23.00	0.00	0.00	0.00
Disbursements			502.50	35.18	537.68
Total (legal)			5,527.50	386.93	5,914.43

<u>EXPERTS</u>					<u>GST (7%)</u>	<u>TOTAL</u>
					<u>Fee+Disb</u>	<u>PER EXPERT</u>
<u>AREA OF STUDY</u>	<u>HOURS</u>	<u>RATE/HOUR</u>	<u>EXPERT FEES</u>	<u>DISBURSEMENTS</u>	\$	\$
		\$	\$	\$		
Hydrogeology	15	110.00	1,650.00	165.00	127.05	1,942.05
Transportation	15	135.00	2,025.00	202.50	155.93	2,383.43
						0.00
						0.00
						0.00
						0.00
Total (Experts)			3,675.00	367.50	282.98	4,325.48

<u>DISBURSEMENTS</u>	<u>DISBURSEMENTS</u>	<u>GST (7%)</u>	<u>TOTAL</u>
Typing			0.00
Photocopying			0.00
Printing			0.00
Transcripts			0.00
Total (Disbursements)	0.00	0.00	0.00

<u>SUB-TOTAL:</u>	669.91	10,239.91
Other sources of funding:	0.00	0.00
G.S.T. Rebate Factor 0.5714 (R- #106984990)	382.78	382.78

<u>TOTAL:</u>	287.13	9,857.13
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PERSON/FIRM RESPONSIBLE FOR FUNDS:
(cheques will be issued in these names)

Mr. Werner Keller
Gignac, Sutts
Barristers & Solicitors
P.O. Box 670
251 Goyeau Street
Suite 600
Windsor, Ontario N9A 6V4

File: a4-cs.wk3

Phone: (519) 258-9333
Fax: (519) 258-9527

SUMMARY OF FUNDING ALLOCATION

<u>LEGAL</u>	<u>HOURS</u>	<u>RATE/HOURS</u>	<u>LEGAL FEES</u>	<u>GST @ 7%</u>	<u>TOTAL</u>
		\$	\$	\$	\$
Senior counsel	0	83.75	0.00	0.00	0.00
Intermediate counsel	100	75.38	7,538.00	527.66	8,065.66
Junior counsel	0	67.00	0.00	0.00	0.00
Law clerk/student	0	23.00	0.00	0.00	0.00
Disbursements			753.80	52.77	806.57
Total (legal)			8,291.80	580.43	8,872.23

<u>EXPERTS</u>					<u>GST (7%)</u>	<u>TOTAL</u>
<u>AREA OF STUDY</u>	<u>HOURS</u>	<u>RATE/HOUR</u>	<u>EXPERT FEES</u>	<u>DISBURSEMENTS</u>	<u>Fee+Disb</u>	<u>PER EXPERT</u>
		\$	\$	\$	\$	\$
Hydrogeology	50	100.00	5,000.00	500.00	385.00	5,885.00
Design & Operations	30	80.00	2,400.00	240.00	184.80	2,824.80
Noise, Dust	30	80.00	2,400.00	240.00	184.80	2,824.80
Surface Water	30	95.00	2,850.00	285.00	219.45	3,354.45
Transportation	30	100.00	3,000.00	300.00	231.00	3,531.00
Waste Quantities	20	120.00	2,400.00	240.00	184.80	2,824.80
Waste Reduction	60	160.00	9,600.00	960.00	739.20	11,299.20
Compensation	10	80.00	800.00	80.00	61.60	941.60
Total (Experts)			28,450.00	2,845.00	2,190.65	33,485.65

<u>DISBURSEMENTS</u>	<u>DISBURSEMENTS</u>	<u>GST (7%)</u>	<u>TOTAL</u>
Typing			0.00
Photocopying			0.00
Printing			0.00
Transcripts			0.00
Total (Disbursements)	0.00	0.00	0.00

<u>SUB-TOTAL:</u>	2,771.08	42,357.88
Other sources of funding:	0.00	0.00
G.S.T. Rebate (rebate percentage ____)	0.00	0.00
<u>TOTAL:</u>	2,771.08	42,357.88

PERSON/FIRM RESPONSIBLE FOR FUNDS:
(cheques will be issued in these names)

Joseph Castrilli
Morris/Rose/Ledgett
Barristers & Solicitors
Canada Trust Tower
161 Bay Street - BCE Place
Suite 2700
Toronto, Ontario M5J 2S1

File: a5-mad.wk3

Phone: (416) 863-1600
Fax: (416) 863-9500

SUMMARY OF FUNDING ALLOCATION

<u>LEGAL</u>	<u>HOURS</u>	<u>RATE/HOURS</u>	<u>LEGAL FEES</u>	<u>GST @ 7%</u>	<u>TOTAL</u>
		\$	\$	\$	\$
Senior counsel	0	83.75	0.00	0.00	0.00
Intermediate counsel	0	75.38	0.00	0.00	0.00
Junior counsel	100	67.00	6,700.00	469.00	7,169.00
Law clerk/student	0	23.00	0.00	0.00	0.00
Disbursements			670.00	46.90	716.90
Total (legal)			7,370.00	515.90	7,885.90

<u>EXPERTS</u>					<u>GST (7%)</u>	<u>TOTAL</u>
<u>AREA OF STUDY</u>	<u>HOURS</u>	<u>RATE/HOUR</u>	<u>EXPERT FEES</u>	<u>DISBURSEMENTS</u>	<u>Fee+Disb</u>	<u>PER EXPERT</u>
		\$	\$	\$	\$	\$
Agriculture	20	110.00	2,200.00	220.00	169.40	2,589.40
Natural Environment & Biology	25	85.00	2,125.00	212.50	163.63	2,501.13
Social Impact	40	130.00	5,200.00	520.00	400.40	6,120.40
Visual	20	81.25	1,625.00	162.50	125.13	1,912.63
EA Process	50	130.00	6,500.00	650.00	500.50	7,650.50
			0.00	0.00	0.00	0.00
			0.00	0.00	0.00	0.00
			0.00	0.00	0.00	0.00
Total (Experts)			17,650.00	1,765.00	1,359.06	20,774.06

<u>DISBURSEMENTS</u>	<u>DISBURSEMENTS</u>	<u>GST (7%)</u>	<u>TOTAL</u>
Typing			0.00
Photocopying			0.00
Printing			0.00
Transcripts			0.00
Total (Disbursements)	0.00	0.00	0.00

<u>SUB-TOTAL:</u>	1,874.96	28,659.96
Other sources of funding:	0.00	0.00
G.S.T. Rebate Factor 0.5714 (R- #126581800)	1,071.35	1,071.35
<u>TOTAL:</u>	<u>803.61</u>	<u>27,588.61</u>

PERSON/FIRM RESPONSIBLE FOR FUNDS:
(cheques will be issued in these names)

Thea M. Dorsey
Willms & Shier
Barristers & Solicitors
73 Richmond Street West
Suite 200
Toronto, Ontario M5H 1Z4

File: a6-tm.wk3

Phone: (416) 863-0711
Fax: (416) 863-1938

SUMMARY OF FUNDING ALLOCATION

<u>LEGAL</u>	<u>HOURS</u>	<u>RATE/HOURS</u>	<u>LEGAL FEES</u>	<u>GST @ 7%</u>	<u>TOTAL</u>
		\$	\$	\$	\$
Senior counsel	0	83.75	0.00	0.00	0.00
Intermediate counsel	10	75.38	753.80	52.77	806.57
Junior counsel	0	67.00	0.00	0.00	0.00
Law clerk/student	0	23.00	0.00	0.00	0.00
Disbursements			75.38	5.28	80.66
Total (legal)			829.18	58.04	887.22

<u>EXPERTS</u>					<u>GST (7%)</u>	<u>TOTAL</u>
<u>AREA OF STUDY</u>	<u>HOURS</u>	<u>RATE/HOUR</u>	<u>EXPERT FEES</u>	<u>DISBURSEMENTS</u>	<u>Fee+Disb</u>	<u>PER EXPERT</u>
		\$	\$	\$	\$	\$
Cultural/Heritage	20	50.00	1,000.00	100.00	77.00	1,177.00
Total (Experts)			1,000.00	100.00	77.00	1,177.00

<u>DISBURSEMENTS</u>	<u>DISBURSEMENTS</u>	<u>GST (7%)</u>	<u>TOTAL</u>
Typing			0.00
Photocopying			0.00
Printing			0.00
Transcripts			0.00
Total (Disbursements)	0.00	0.00	0.00

<u>SUB-TOTAL:</u>	135.04	2,064.22
Other sources of funding:	0.00	0.00
G.S.T. Rebate (rebate percentage _____)	0.00	0.00
<u>TOTAL:</u>	<u>135.04</u>	<u>2,064.22</u>

PERSON/FIRM RESPONSIBLE FOR FUNDS:
(cheques will be issued in these names)

Louis J. Balen
Harrison Elwood
Barristers & Solicitors
450 Talbot Street
P.O. Box 3237
London, Ontario N6A 4K3

File: a7-pho.wk3

Phone: (519) 679-9660
Fax: (519) 667-3362

Participant Funding Program
Essex-Windsor Waste Management Plan Process

APPENDIX I

SUMMARY OF FUNDING APPLICATIONS AS PRESENTED TO PANEL - FEBRUARY 21, 1992

Participant	Legal Fees & Disbursements	Expert Fees & Disbursements	Intervenor Disbursements	Total Budget of Funding Applications	Available Funds From Other Sources	GST Rebate	Total Funding Requested
	(a)	(a)	(a)				
Citizens Environment Alliance	7,097	19,421	4,120	30,638	0	0	30,638
Solid Waste Alternative Products	0	30,495	2,675	33,170	0	0	33,170
SUBTOTAL - GENERAL	7,097	49,916	6,795	63,808	0	0	63,808
Colchester South & A.F.F. Farms	17,080	46,221	0	63,301	4,622	0	58,679
Township of Colchester North	20,598	164,753	0	185,351	16,475	0	168,876
Colchester In Action	17,923	33,571	0	51,494	0	0	51,494
SUBTOTAL - LANDFILL #1	55,601	244,545	0	300,146	21,097	0	279,049
Maldstone Against Dumping	20,806	88,746	1,070	110,622	21,297	0	89,325
Chris Pekrul	0	0	0	0	0	0	0
Proverbs Heritage Organization	4,538	3,210	0	7,748	0	0	7,748
Township of Maldstone	25,610	149,058	0	174,668	33,000	0	141,668
John Zack & Sons Limited	5,604	0	0	5,604	0	0	5,604
SUBTOTAL - LANDFILL #3	56,558	241,014	1,070	298,642	54,297	0	244,345
TOTALS	119,256	535,475	7,865	662,596	75,394	0	587,202

Notes: (a) GST IS INCLUDED: 3% FOR COLCHESTER SOUTH AND MAIDSTONE AS IN THEIR APPLICATIONS
7% FOR ALL OTHERS

Exhibit List

- G1 Order In Council - December 13, 1990
- G2 Notice of Participant Funding Program - September 5, 1991
- G3 Affidavit of Service of Susan White - October 18, 1991
- G4 Affidavit of Service of Joy Ulman-Mayerhofer - October 18, 1991
- G5 List of Documentation - September 16, 1991
- G6 Memorandum regarding Landfill Approval Schedule - September 23, 1991
- G7 List of Specialist Areas - October 1991
- G8 Letter and Summaries from John Martin, Miller Thomson - February 3, 1992
- G9 Letter and Summaries from John Martin, Miller Thomson - March 5, 1992
- 1A Funding Application submitted by Citizens Environment Alliance - December 6, 1991
- 1B Letter from Rick Coronado, CEA - February 21, 1992
- 2A Funding Application submitted by Colchester In Action - January 24, 1992
- 3A Revised Funding Application submitted by The Corporation of the Township of Colchester North ("Colchester North") - January 24, 1992
- 3B Adjustments to Colchester North's Funding Application - February 21, 1992
- 3C Financial Statement submitted by Colchester North - December 31, 1990
- 4A Revised Funding Application submitted by The Corporation of the Township of Colchester South ("Colchester South") - January 24, 1992
- 4B Financial Statement of Colchester South - December 31, 1990
- 6A Revised Funding Application submitted by Maidstone Against Dumping ("MAD") - January 27, 1992
- 6B Letter from Joseph Castrilli, Morris/Rose/Ledgett - February 18, 1992
- 6C Tasks to Be Performed By Consultants To Be Retained By Maidstone Against Dumping
- 7A Revised Funding Application submitted by The Corporation of the Township of Maidstone - January 26, 1992
- 7B Township of Maidstone Auditors' Report & Financial Statements - December 31, 1990
- 8A Funding Application submitted by Chris Pekrul - December 1, 1991
- 9A Revised Funding Application submitted by Proverbs Heritage Organization - January 21, 1992
- 9B Letter from Paul Kale, David & Kale - February 20, 1992
- 10A Revised Funding Application submitted by S.W.A.P./Solid Waste Alternative Products Group - January 23, 1992
- 11A Funding Application submitted by John Zack & Sons Limited - December 12, 1991;
Revised Funding Application submitted by John Zack & Sons Limited - January 16, 1992

CAZONEA 92001

Ontario. Environmental Assessment Board.

OC-91-01(F)

ESSEX-WINDSOR WASTE MANAGEMENT MASTER PLAN F
PROGRAM. 1992.

**RESOURCE CENTRE
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